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Brian R Naranjo 03/27/2002 03:54:14 PM From DB/inbox: Brian R Naranjo

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TELEGRAM

March 27, 2002

Chiron

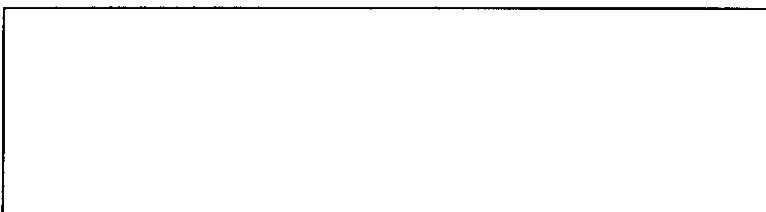
To: SECSTATE WASHDC - IMMEDIATE
Action: EB
From: AMEMBASSY CARACAS (CARACAS 811 - IMMEDIATE)
TAGS: ECON, EPET, ENRG, VR
Captions: SENSITIVE
Subject: VENEZUELAN HYDROCARBONS LAW IMPLEMENTATION/REFORM
Ref: None

RELEASED IN PART
B1, 1.4(D), B4, B6

SENSITIVE BUT UNCLASSIFIED; PLEASE HANDLE ACCORDINGLY.

SUMMARY AND ACTION REQUEST

1. (SBU) While a number of questions relating to the Hydrocarbons Law and its implementation still remain, royalty issues have now moved to the forefront. The companies in the so-called "Third Round" projects owe their first quarter royalties to Venezuela's state-owned oil company, Petroleos de Venezuela (PDVSA), in early April. However, the royalty rate for these projects is an open question. Local operators anticipate that PDVSA will cite a royalty rate of 20 percent (vice 16.67 percent). Their best hope for redress lies with the National Assembly's Permanent Commission on Energy and Mines which, perhaps as early as the week of April 1, will start consideration of reform of the Hydrocarbons Law.



B1

3. (U) In the debate surrounding the passage of the new Hydrocarbons Law, the GOV insisted that the provisions of pre-existing contracts would be respected. In January, the Ministry of Energy and Mines (MEM) confirmed that the one percent royalty currently paid by Conoco's extra heavy crude project, Petrozuata, would not be affected by the changed royalty provisions in the new law. ExxonMobil subsequently received similar confirmation for its Cerro Negro project. These operators had been concerned because the royalty agreement for the so-called "faja" projects was set in a side agreement between the state-owned oil company, Petroleos de Venezuela (PDVSA), and the MEM and was not included in the actual contracts.

4. (U) The project contracts concluded in the so-called "First and Second Rounds" contain specific royalty provisions and are thus covered by the protection against retroactivity in Venezuelan law. The "Third Round" operating agreement contracts, however, included an ambiguous reference to "current royalty." Although the contracts were signed at a time when the royalty was 16.67 percent, the third round operators believe the GOV will apply the royalty regime of the new Hydrocarbons Law (i.e. 30 percent with the possibility of reduction to 20

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: JOHN L MILLS
DATE/CASE ID: 06 JUN 2006 200304421

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percent).

5. (SBU) The companies involved in the "Third Round" projects owe their first quarter royalties in early April.

[redacted] The MEM, however, is generally believed to be considering assigning a 20 percent royalty to these projects. Questions have thus focused on the remaining 3.33 percent (difference between 16.67 and 20 percent) which could materially affect the profitability of a number of the projects. Many believed that, under General Lamada, PDVSA would eat the difference itself. Under Gaston Parra, this is unlikely. The best chance for a change has thus shifted to the National Assembly and on-going efforts to reform some of the Chavez Government's 49 decrees-laws.

BACKGROUND ON EFFORT TO REFORM HYDROCARBONS LAW

6. (U) Early in December, following the uproar over the passage of the decree laws, the National Assembly formed a 29-member Special Commission tasked with gathering comments on the 49 laws. It received comments on 22, with the Hydrocarbons Law receiving the most comment. The Special Commission passed the results of its work to the National Assembly at the end of January, recommending that the 22 laws that the public had commented on be referred to the appropriate Permanent Commissions for analysis. Recommendations for reform by the various Permanent

Commissions would then be voted on in a plenary session of the National Assembly.

CURRENT STATUS

7. (U) Work on this reform effort has been slowed because of political horse trading going on surrounding the membership of the various Permanent Commissions.

[redacted] informed Econoff that the membership of the various Commissions has now been settled. Luis Salas will head the Permanent Commission on Energy and Mines with a Vice President from the opposition. Calixto Ortega (formerly the Commission's Vice President) will head a sub-commission which will start work shortly (perhaps as early as the week of April 1) to review the Hydrocarbons Law.

8. (U) [redacted] informed Econoff that the Commission will focus its work on the "20 percent of the Hydrocarbons law that needs reform." [redacted] this will include the royalty issue, state participation, the provisions relating to the domestic market, and, finally, the issue of the grandfather clause.

COOK

Additional Addressees:
None

cc:

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ACTION EB-00

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| | FAAE-00 | UTED-00 | VC-00 | FRB-00 | H-01 | TEDE-00 | INR-00 |
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E.O. 12958: N/A
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